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1948. **File No.** O Motor Spirit/48

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Legal **DEPARTMENT**

A **BRANCH**

P 6E

Subject:—

23/5

Opinions under the Bombay Motor Spirit Rationing Orders 1941

File No. O-Motor Spirit/48

Std. Sectt. Slip 24 B e.

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Madhav [illegible].
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Misuse of petrol coupons.

Motor Spirit
Rationing
Order, 1941
Clauses 26(a)
and 28(a)

It appears that Messrs. D.C. and A.B. Contractors were issued petrol coupons for 1,040 gallons of petrol for the quarter May— July 1946 by the Area Rationing Authority, Thana. It was found on investigation that these operators had misused petrol and thereby contravened the provisions of clauses 26 (a) and 28(a) of the Motor Spirit Rationing Order, 1941. It appears that they were prosecuted for that offence and pending the prosecution the Area Rationing Authority, Konkan Region, Thana, by his order, dated 21st October, 1948, directed as follows :-

> "You (Messrs. D.C. and A.B. Contractors) have deliberately misused petrol coupons entrusted to you for the operation of your stage carriage service at Sanjan, Nargol, Bhilad, Fansa and Udwa and the Provincial Rationing Authority had, therefore, directed that further issues should be withheld pending decision of the Court in this regard. You are, therefore, directed to return all the unused petrol coupons issued to you for this quarter immediately on receipt of this letter."

It is contended on behalf of Messrs. D.C. and A.B. Contractors that this direction is illegal and it would amount to contempt of Court if it be enforced. The question raised for R.L.A's consideration is whether the contention is valid.

2. It appears from the note of the Provincial Rationing Authority at page 17 in the linked file that this direction stopping the petrol issues was made under the provisions of clauses 20 sub-clause (4) and 21 sub-clause (2) of the Motor Spirit Rationing Order, 1941, with a result that the coupons were required to be surrendered under clause 14, sub-clause (c), as the purpose for which the pet-

the petrol coupons were issued had ceased to apply. It appears that this direction is not lawful. It is true that under clauses 26 (a) and 28 (a) of the Motor Spirit Rationing Order, 1941, a person who has ~~issued~~ misused motor spirit acquired by him against the surrender of special or ordinary receipt or coupons can be prosecuted, but there is no provision in the Motor Spirit Rationing Order that the prosecution ~~of~~ for such offence involves either the stoppage of issue of petrol or the surrender of coupons. Clause 20, sub-clause (4) gives power to a Provincial Rationing Authority to issue instructions t

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all or any Rationing Authorities as to the extent to which in issuing coupons for the supply of motor spirit to any person for any prupose the Area Rationing Authority shall aim at effecting a reduction of the amount of motor spirit consumed in normal conditions by that person for that purpose and clause 21 sub clause (3) authorises the Area Rationing Authority to fix he amount of motor spirit for which coupons may be granted. It is clear that these provisions are intended to authorise the reduction in the issue of petrol while fixing the amount of petr to be issued to any person for the period. Obviously, thes provisions do not authorise the Provincial Rationing Authority to issue instructions nor the Area Rationing Authority to reduce the amount according to such instructions during the period for which the coupons have been issued fixing the amount of petrol to be issued to a person. Besides the order is made in relation to an offence alleged to have been committed in the year 1946. The issue or reduction of petrol for the current quarter cannot naturally be determined with reference to a past misuse two years ago; such misuse would have no bearing upon the consumption in normal conditions by the person concerne The direction purporting to be issued under clause 20(4) and 21(stopping the supply ofpetrol o Messrs. B.C. and A. B. Contractor is not thus lawful. The surrender of coupons can be demanded under clause 14 only if:

(a) the period during which the coupons authorised the supply of motor spirit has expired, or

(b) the use of the vehicle in respect of which the coupons were issued has, by reason of failure to comply with any conditions imposed by law on its use, become unlawful, or

~~(c)~~

~~(c) the purpose for which he coupons were issued has ceased to apply.~~

~~None of these conditions being satisfied in the present—— (next page.)~~

(c) the purpose for which the coupons were issued has ceased to apply.

None of these conditions being satisfied in the present —(next page)

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present case, the order directing Messrs. B.C. and A.D. Contractors to surrender the coupons also was not lawful.

3. The second question about the contempt of Court does not survive.

sd/- P.N.L.

Remembrancer of Legal Affairs.

U. R. to H.D. No. 11808 dated the 13th December 1948.

Madhav Prakadan.

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